MANDATE

SDNY/NYNY
04-cv-6795
Daniels

United States Court of Appeals
FOR THE
SECOND CIRCUIT

JUDGMENT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 13th day of August, two thousand eight,

Before: Hon. Robert D. Sack,
Hon. Robert A. Katzmann,
Hon. Reena Raggi
Circuit Judges.

UNITED STATES COURT OF APPEALS
FILED
AUG 13 2008
Catherine O'Hagan Wolfe, Clerk
SECOND CIRCUIT

Docket No. 06-3226-cv, 06-3696-cv

U.S. DISTRICT COURT
FILED
NOV 05 2008
S.D. OF N.Y.

Penguin Group (USA) Inc.,
Plaintiff-Appellant,

Waverly Scott Kaffaga, individually as Executor of the Estate Elaine Anderson Steinbeck, David Scott Farber, Anderson Farber Runkle, Jebel Kaffaga, Bahar Kaffaga and Jean Anderson Boone,
Defendants-Counterclaim-Plaintiffs-Appellants,

v.

Thomas Steinbeck and Blake Smyle,
Plaintiffs-Counterclaim-Defendants-Appellees,

Nancy Steinbeck,
Intervenor-Plaintiff,

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/5/08

McIntosh & Otis, Inc., The Steinbeck Heritage Foundation, Eugene H. Winick, Samuel Pinkus and Steven Frushtick
Defendants-Counterclaim-Plaintiffs,

Francis Anderson Atkinson and Does 1-10,
Defendants.

Appeal from the United States District Court for the Southern District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York and was argued by counsel.

ON CONSIDERATION THEREOF, it is hereby ORDERED, ADJUDGED, and DECREED that the judgment of the district court is REVERSED and the case REMANDED for entry of judgment in favor of Penguin in accordance with the opinion of this court.

FOR THE COURT:
CATHERINE O'HAGAN WOLFE, Clerk
by

Joy Fallek
Joy Fallek
Administrative Attorney

A TRUE COPY
Catherine O'Hagan Wolfe, Clerk
by [signature]
DEPUTY CLERK

ISSUED AS MANDATE: NOV 03 2008